

Tax Type: Property Tax
Issue: Charitable Ownership/Use

THE DEPARTMENT OF REVENUE)	
OF THE STATE OF ILLINOIS)	
)	Docket # 06-PT-0002
v.)	PIN 13-19-873-000
)	Tax Year 2005
GLOBAL TRUTH MINISTRIES)	
)	Dept. Docket # 05-34-1
Applicant)	

Appearances: Kent Steinkamp, Special Assistant Attorney General, for the Department of Revenue of the State of Illinois; Pastor Aaron Ferguson, *pro se*, for Global Truth Ministries.

Global Truth Ministries (“applicant”) filed an application for a property tax exemption for the year 2005 for a parcel of property located in Hancock County. The County Board of Review recommended that the exemption be denied, and the Department of Revenue (“Department”) affirmed the Board’s decision. The applicant timely protested the Department’s determination, and an evidentiary hearing was held on August 3, 2006. The property contains a two-story building with four apartments, and the applicant contends that it qualifies for an exemption on the basis that it is owned by a

charitable organization and used exclusively for charitable purposes. The Department does not contest the ownership requirement but denied the exemption on the basis that the property is not being used for charitable purposes. For the following reasons, it is recommended that the property does not qualify for the charitable purposes exemption.

FINDINGS OF FACT:

1. The applicant purchased the property at issue on February 20, 2005. The property is located at 731 Main Street in Carthage, Illinois and contains a large house that has four residential units: efficiency, one-bedroom, two-bedroom, and three-bedroom. (Dept. Ex. #1; Tr. p. 32)
2. On January 28, 2005, the applicant sent a memorandum to the residents who were living in the building at that time to notify them of the change in ownership. The memorandum states that all rents will be due prior to the first of every month. It also states as follows: “Any renter’s negligence and failure to pay rent on time will be a nonverbal statement of vacating premises and an eviction notice will be served immediately.” In addition, the memorandum states that each tenant will be responsible for his or her own electric bills. (Dept. Ex. #1, p. 15)
3. During 2005, the rental income and expenses for the property were as follows:

Unit 1, lower level	\$3,500.00
Unit 2, lower level	0
Unit 1, upper level	1,000.00
Unit 2, upper level	2,000.00
Total Rent	\$6,500.00
Ameren CIPS	310.06
Nicor	1,346.22
Lawn Care	180.00
Supplies	132.42
Mortgage	4,556.40

Total Expenses \$6,525.10 (Dept. Ex. #2, p. 4)

4. From March to November of 2005, a tenant named Jerry Schlepper rented unit 1 on the lower level and paid rent of \$350 per month. For the month of December, a tenant who had been Mr. Schlepper's roommate rented the unit for \$350. (Dept. Ex. #2, Tr. pp. 15-16)
5. From May to September of 2005, a tenant named William Scott McCombs lived in unit 2 on the lower level. In lieu of rent, Mr. McCombs performed maintenance work for the applicant. He mowed the lawn and renovated bathrooms, which included painting and plumbing. Before he occupied unit 2, he totally renovated it. (Tr. pp. 8-9, 16-19, 36)
6. At the time that Mr. McCombs moved into the applicant's facility, he was under house arrest and was living in a place that was going to be sold. He would have been sent back to the correctional facility if he did not find another place to live. (Dept. Ex. #2, p. 6; Tr. pp. 8-9)
7. During November and December of 2005, a mother and her child resided in unit 2 on the lower level. She did not pay rent. The Department of Human Services sent her to the applicant. (Tr. p. 20)
8. The woman who was referred to the applicant by the Department of Human Services had a "work agreement" with the applicant. (Tr. p. 11)
9. From March to July of 2005, a family with one child lived in unit 1 on the upper level. This family was previously in housing that was destroyed by a fire, and the father lost his job. The family did not pay rent. (Tr. pp. 14-15, 21)

10. From September to December of 2005, a woman rented unit 1 on the upper level for \$250 a month. (Tr. p. 22)
11. From March to December of 2005, a tenant named Cynthia Smith rented unit 2 on the upper level for \$200 a month. From January to June of 2006, Ms. Smith paid \$250 for this unit. (Dept. Ex. #2, p. 4; App. Ex. #1; Tr. p. 24)
12. Ms. Smith has performed custodial work for the applicant. (Tr. p. 36)
13. The applicant has provided counseling to Ms. Smith because she has had problems communicating, paying her bills, and taking care of herself. (Tr. pp. 9-10, 41-44)
14. During 2006, the rental income and expenses for the property were as follows:

Unit 1, lower level	\$2,100.00
Unit 2, lower level	1,225.00
Unit 1, upper level	2,050.00
Unit 2, upper level	1,500.00
 Total Rent	 \$6,875.00
 Water	 718.36
Gas	3,965.06
Lawn Care	80.00
Supplies	85.00
Mortgage	3,645.12
Pest Control	300.00
Waste Removal	108.50
 Total Expenses	 \$8,902.04 (App. Ex. #1)

15. From January to June of 2006, a single mother with three children paid rent of \$350 per month for unit 1 on the lower level. A friend of hers and another child moved into the apartment with her. At the time of the hearing, the applicant had not yet received the rent for July and August. (Tr. pp. 27-28)

16. From March to July of 2006, a single mother with a child and live-in boyfriend resided in unit 2 on the lower level and paid \$175 a month for rent. The applicant paid for their electricity. (Tr. pp. 29-30)
17. Another tenant moved into unit 2 on the lower level in July of 2006. She paid rent for July, and at the time of the hearing she promised to pay rent for August. (Tr. p. 31)
18. From January to May of 2006, a hearing-impaired woman and her baby resided in unit 1 on the upper level and paid \$250 a month for rent. In July, Cynthia Smith moved from unit 2 into this unit and paid rent of \$250 a month. (Tr. pp. 31-33)
19. In July 2006, William Scott McCombs moved into unit 2 on the upper level, and he does not pay rent. (Tr. p. 33)

CONCLUSIONS OF LAW:

Article IX, section 6 of the Illinois Constitution of 1970 authorizes the General Assembly to grant property tax exemptions in limited circumstances and provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to this constitutional authority, the General Assembly enacted section 15-65 of the Property Tax Code, which allows exemptions for charitable purposes and provides in part as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) Institutions of public charity. * * *. (35 ILCS 200/15-65(a)).

Property may therefore be exempt under this section if it is (1) owned by an entity that is an institution of public charity, and (2) actually and exclusively used for charitable purposes. *Id.*; Chicago Patrolmen's Association v. Department of Revenue, 171 Ill. 2d 263, 270 (1996); Methodist Old People's Home v. Korzen, 39 Ill. 2d 149, 156-157 (1968). Whether property is actually and exclusively used for charitable purposes depends on the primary use of the property. Methodist Old Peoples Home at 156-57. If the primary use of the property is charitable, then the property is "exclusively used" for charitable purposes. Cook County Masonic Temple Association v. Department of Revenue, 104 Ill.App.3d 658, 661 (1st Dist. 1982).

In Methodist Old Peoples Home, the Supreme Court provided the following guidelines for determining charitable use: (1) whether the benefits derived are for an indefinite number of people, persuading them to an educational or religious conviction, for their general welfare or in some way reducing the burdens of government; (2) whether the organization has no capital, capital stock or shareholders, earns no profits or dividends, but rather derives its funds mainly from public and private charity and holds them in trust for the objects and purposes expressed in its charter; (3) whether the organization dispenses charity to all who need and apply for it, does not provide gain or profit in a private sense to any person connected with it, and does not appear to place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses; and (4) whether the primary purpose for which the property is used, not any secondary or incidental purpose, is charitable. Methodist Old Peoples Home, 39 Ill. 2d at 156-57. These factors are used to determine whether property meets the constitutional standards for a charitable purposes exemption. Eden

Retirement Center, Inc. v. Department of Revenue, 213 Ill. 2d 273, 290-291 (2004).

They are to be balanced with an overall focus on whether and how the organization and use of the property serve the public interest and lessen the State's burden. See DuPage County Board of Review v. Joint Commission on Accreditation of Healthcare Organizations, 274 Ill. App. 3d 461, 468-469 (2nd Dist. 1995).

It is well-established that property tax exemption provisions are strictly construed in favor of taxation. People ex rel. County Collector v. Hopedale Medical Foundation, 46 Ill. 2d 450, 462 (1970). The party claiming the exemption has the burden of proving by clear and convincing evidence that it is entitled to the exemption, and all doubts are resolved in favor of taxation. *Id.*; City of Chicago v. Department of Revenue, 147 Ill. 2d 484, 491 (1992); Evangelical Hospitals Corporation v. Department of Revenue, 223 Ill. App. 3d 225, 231 (2nd Dist. 1992).

The evidence presented by the applicant does not support a finding that the property is used primarily for charitable purposes. The applicant derives all of its income from the rent that it receives from its tenants. When the applicant acquired ownership of the property, it sent a memorandum to the residents who were living there stating that all rents were due prior to the first of every month. It also informed the residents that their failure to pay the rent on time would be construed as a nonverbal statement that they were vacating the premises, and an eviction notice would be served immediately. In addition, although the applicant did not provide a copy of the written leases that it uses, the applicant indicated that the leases include language requiring the payment of rent unless otherwise arranged with the directors of the applicant. The applicant also stated that the leases do not include language indicating that rent may be waived if the tenant is unable

to pay it. (Tr. p. 35) These facts suggest that the applicant operates its housing complex like a business rather than a charitable enterprise.

Although some of the tenants have not paid rent, the applicant admitted that it had provided housing to some of the tenants in exchange for work. (Tr. pp. 36-37) Mr. McCombs is allowed to stay there without paying rent because he performs maintenance work for the applicant. Ms. Smith has provided custodial work, and the woman who was referred to the applicant by the Department of Human Services had a “work agreement” with the applicant. (Tr. p. 11) The work agreement was not explained, but it appears as though the applicant provides “free” housing only in exchange for work from some of the tenants.

With respect to the single mother who was living in unit 1 on the lower level during 2006, the applicant indicated that at the time of the hearing it had not yet received rent for July and August. (Tr. pp. 27-28) The applicant indicated that it did not have any “work arrangements” or anything like that with her, and “We may have to forgive some of that debt.” (Tr. p. 28) Writing off a bad debt, however, is not the same as providing charity. See Alivio Medical Center v. Department of Revenue, 299 Ill. App. 3d 647, 652 (1st Dist. 1998). The applicant indicated that it is allowing some people to stay there “with only a promise that they will catch that [rent] back up.” (Tr. p. 33) The applicant is clearly expecting its tenants to pay the rent and will write it off only if it is not paid. These facts are not indicative of a charitable use of the property.

Although copies of the applicant’s advertisements were not provided, the applicant stated that it has advertised its units through fliers posted at the local laundromat and other places; the applicant stated that the fliers advertise “affordable

housing options.” (Tr. pp. 34-35) Providing affordable housing and counseling to low-income individuals are laudable acts, but laudable acts do not necessarily constitute charity. See Rogers Park Post No. 108, American Legion v. Brenza, 8 Ill. 2d 286, 291 (1956). The evidence presented does not indicate that the applicant advertises or provides housing without charge to those who are not able to pay for it. The applicant provides housing with the expectation that it will receive payment. Because the applicant has the burden of proving by clear and convincing evidence that the property is entitled to the exemption, the exemption must be denied.

Recommendation:

For the foregoing reasons, it is recommended that the property does not qualify for the charitable purposes exemption.

Linda Olivero
Administrative Law Judge

Enter: November 16, 2006